C. F. 140-95.

G. R. S. IX-5]

Previous references. 1872-3. ~~191~~. (Annl.)

File No. 7-72.

Serial Nos. 1-10.

Later references.
Ann. 375-13 Sel. 1.
Ann. 2-91
Ann. 7-97.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-10

Gr. ~~Part~~ B for January 1875.

SUBJECT.

Ammendment to ~~Section~~ (X) ~~Tax of~~ Bangalore Octroi Rules.

---

72 pages)

In Press

W D 88—GPB—50,000—24-7-16

as directed in the
latter part of the
Cuf. Comrs orders
passed on the
Pundy droog Com
letter No. 12 dated
10th Sept. 174, the
sanction of the
Govt of India
solicited to the
amended additio
to octroi Rule N
10. From that
apply however it no
turns out that
the defaulter char
:ter of the rule in
question is not
providing an alter
native of imprison
ment in cases of
non-payment of
fine was ever brou
brought to the not
of the Supreme Gov

this office letter No. 2506 dt. 7.9.1
marginally noted and
letter under ref. to
in their despatch
No. 1949. directed the
application of the
provisions of sections
64 & 70 (both inclusive)
of the Indian Penal
and 3 of section
3 of the Code of
Criminal Procedure
Act X of 1872. The
latter section provides
for the issue of notice
(1)
to the persons
against the
the offences and the
(2)
Code mentioned therein
to appear

2. The Govt of India
in their Financial
Letter No. 210 T. D.
30th Nov - 1874
refer the corres
pondence that
has already taken
on the subje
object
and that the rule
then sanctioned
for all the powe
which it is desirab
that it should
should refer
[illegible] opin
kind.
3. It is much t
regretted that
the Bench and
Provincial Officers
in making their
reference of doubt-
ful & the Offic
worded

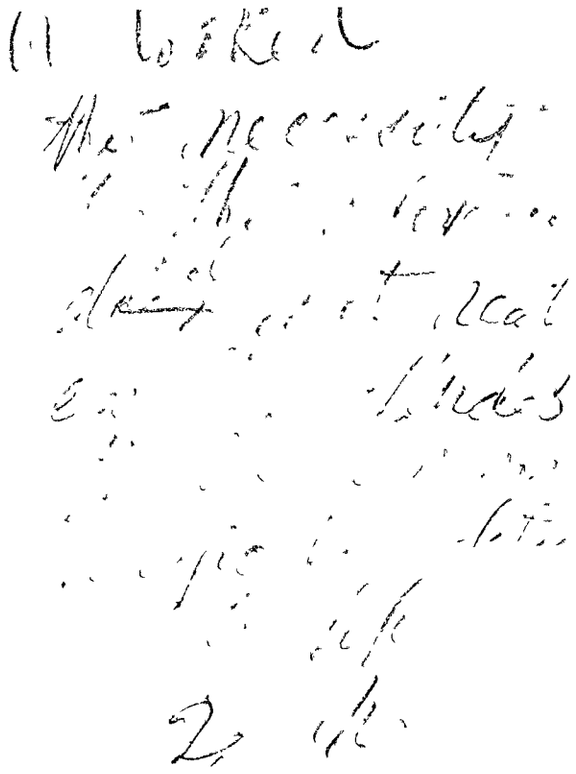
former correspondence
on the subject.
The Town and
Petty Sessional Magistrates
[illegible] also was
[illegible]
[illegible] was
the prime mover
of the question, ought
to have known of the
existence of the defendants
[illegible]
[illegible] 73 & 20 Vict. cap.
[illegible]
[illegible]
[illegible]
[illegible]

5. unnecessary comma
before for
closed question.

4 I should
however be
very interested
to read later to
your dated 5th
how but we
also proposed the
[illegible] of a new
section 2 of the
[illegible]
providing registration
of unregistered
[illegible] cases in
which fines are
not collected
[illegible] a better
check and less
risk of our losing
the offender with
[illegible]

Nick the Officer wanted to have
able action with
appreciation!
fine or
otherwise.

B Sparkes
19/12/74



No. (1)

Extract of Para 10 of Rules & Circular published with No. 29 Dated ~~29 April~~ 1840.

* * — * — * *

10 The Huzoor having been given to understand that in some places the Sayer Ezaradars are in the habit of confiscating smuggled goods or taking fines from smugglers at their discretion, that practice is hereby abolished and the following rules are established on the head.

The Taluk Police being vested the authority of punishing smugglers by confiscating the smuggled goods or by taking fines from them, and the duty Ezaradars being alone to trace the smugglers, they are hereby directed to make over to the Taloob Amildars all smugglers apprehended with the smuggled goods. The Amildars of the Talooks are to investigate all cases of smuggling in conformity to the rules established for the Taloob Magistrates and when

proceed to report the same to the Superintendent of the Division. The Superintendents may dispose of each case at their discretion by ordering either the confiscation of the smuggled goods or by directing a fine of double or treble the amount of the regulated Sayer duty on the goods as the case may appear to them fit. From the amount proceeds of the sale of the smuggled goods or of the Fines, the amount of the regulated Sayer duty on the smuggled goods to which the Examiner is entitled shall be paid to him. From the remainder, one half to be given as a reward to the person who may have traced the smugglers, apprehended the goods

and

and informed the Sirkar of the case, carrying the other half to the public accounts under the head of "Sevaji Jumma", & should the smuggled goods be proved to have been traced and apprehended and the information of it reached the Talook Police by the Ezaradar or by his people, the Ezaradar will be entitled to the above mentioned reward. But should it be proved that the tracers, apprehenders and informers of the smuggled goods be any other people the reward should go to them. In case of any persons receiving, secreting or purchasing any goods knowing them to have been smuggled, such cases are liable to be investigated agreeably to the rules and when the parties concerned be convicted are punishable by fines either by the Superintendents or the Amildars at their discretion as the case may appear to them fit.

Compd
1/16
cop. S. 16

No. 390 12

Dated 16th March 1871. (2)

The following amended rules in substitution of those published under Notification No. 34. dated 2d. ultimo, framed under section 13 of Act. No. XVIII of 1864, for the collection of excise duties in the Cantonment and Town of Bangalore, having been allowed by His Excellency the Viceroy and Governor General in Council, as communicated in Foreign Department Letter No. 207, dated 7th November 1865, from Secretary to the Govt. of India to the Chief Commissioner Mysore. No. 7 J. dated 18th January 1871, are published for general information, and will have effect from this date.

Rules for the collection of Excise Duties in the Cantonment and Town of Bangalore.

The administration and collection of the excise duties hitherto levied by the Mysore Govt on the undermentioned articles consumed within the limits of the Cantonment and Town of Bangalore shall hereafter be vested in the Municipal Boards, subject to the following rules which are framed and promulgated under authority of letter No 307, dated 7th November 1868, from Secretary to the Govt of India to the Chief Commr, Mysore.

Tobacco (of Indian manufacture)
Betel-nut (Sooparee)
Betel-leaf

2 The amount of excise duty leviable on the following articles when imported for consumption

into the Town and
shall not exceed the rates be
=low specified.

Tobacco per maund of 24 pounds 3-8-0

Betel-nut do 28 do "-4-"

Betel-leaf from the Mysore
Country per 100 - - "-"-1

do from H. Ex's Territories
per 100 "-"-2

3 Excise duty shall not be levi=
=able on any of the said articles
exported from, or in course of
transit through, the Town Limit=
=ment of Bangalore, provided
such articles shall be stored
at the warehouses or in the en=
=closures, wherein goods can
be stored in cart without
breaking of bulk, set apart
by the Board for the purpose,
and that a pass (rahadari) be
taken out by the owners speci=
=fying the declared quantity of
the same and their destination.

6 × × × ×

The Municipal Board shall also frame rules consistent with these rules and with the law for the time being in force, for the management and supervision of the warehouses ※ ※ these rules may be amended or altered by the Board.

12 × × × ××

Unless otherwise specially authorized by the Board ~~& the Board~~, licenses for retail sale for which a fee of an annual sum not exceeding Rs one shall be levied by the Board, shall be granted for the term of one year, and if continued in the holders thereof shall be formally renewed from year to year; the grant and renewal of ~~the~~ such licenses shall be made in communication

※ Add:- The Rules, when sanctioned by the Board, shall be kept open for inspection at all reasonable times at the warehouses &c

communication with the con
=tractor for farming
for the time being; but it
shall be incumbent on every
person holding a license,
who may intend not to
it, to give notice of his
=tion to the Board fifteen
days previously to the expira
=tion of the year; and if such
notice be not given, it
be at the option of the
to treat each license as
terminated or as
for a further period of
year; and if the license be
not recalled by the Board
the license held and engage
=ment entered into by every
such person, shall rema
in force as if the said
and engagement had
formally ~~been~~ in renewed.

(2) 17

No. 390. The 16th March 1871.

The following amended rules in substitution of those published under Notification No. 341, dated 2nd ultimo, framed under Section 13 of Act XVIII of 1864, for the collection of excise duties in the Cantonment and Town of Bangalore, having been approved by His Excellency the Viceroy and Governor General in Council, as communicated in Foreign Department letter No. 7 J., dated 18th January 1871, are published for general information, & will have effect from this date.—

Rules for the collection of Excise Duties in the Cantonment and Town of Bangalore.

The administration and collection of the excise duties hitherto levied by the Mysore Government on the undermentioned articles consumed within the limits of the Cantonment and Town of Bangalore, shall hereafter be vested in the Municipal Boards, subject to the following rules which are framed and promulgated under authority of letter No. 307, dated 7th November 1868, from Secretary to the Government of India to the

Chief Commissioner, Mysore.

Tobacco (of Indian manufacture).
Betel-nut (supári)
Betel-leaf.

The amount of excise duty leviable on the following articles when imported for consumption into the Town and Cantonment, shall not exceed the rates hereunder specified.

	Rs. As. P
Tobacco per maund of 24 pounds —	3-8-0
Betel-nut per maund of 28 — do: —	0-4-8
Betel-leaf from the Mysore Country per 100	0-0-1
do from H. H.'s Territories per 100 —	0-0-2

3 Excise duty shall not be leviable on any of the said articles exported from, or in course of transit through, the Town and Cantonment of Bangalore, provided such articles shall be stored at the warehouses or in the enclosures, wherein goods can be stored in cart without breaking of bulk, set apart by the Boards for the purpose, and that a pass (rahadári) be taken out by the owners specifying the declared quantity of the same and their destination.

A reasonable charge for storage may be levied at the warehouse for such goods as are

delayed

delayed in export or transit, not to exceed one anna per diem per cart or cartload.

4 It shall be competent to the Municipal Boards with the sanction of the Chief Commissioner to farm or let out on contract to one or more persons, the collections of duty on the said articles for a term not exceeding three years, at a fixed rate per annum; always provided, that the contractor shall not exercise any monopoly of the said articles and shall not levy higher rates of duty than those prescribed by the Municipal Boards, or in any way interfere with the sales of any such excisable articles on which the dues have already been levied.

A license drawn up in conformity with the provisions of these rules shall be granted by the Municipal Boards to the contractor; such license may further contain such other provisions or restrictions not repugnant to the spirit of these rules as the Boards may deem necessary.

The contractor shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such

post in lieu of security as the Boards may require.

As it is intended from the date these rules come into operation that the Government Bazar establishment within the Cantonment and Town of Bangalore shall be abolished, claims of its members on account of past services being adjusted without delay, any official of the said Bazar establishment who may thereafter be employed as an Excise Officer by the Boards or the contractor, shall not have any claim on the Government in respect of such services.

I It shall be competent to the Boards on the representation of the contractor to permit him to appoint any establishment at his expense for the prevention of smuggling, the persons composing such establishment to be nominated by and to be subordinate to him; always provided that the President of the Cantonment and Civil Municipal Boards within their respective jurisdictions shall have power to require the Contractor to dismiss subordinates employed by

by them if satisfied there is due cause such action.

II It shall also be competent to the Board to maintain such establishment as they may deem necessary to exercise a general supervision over the contractor's establishment in the prevention of oppression or extortion, and to aid his by exercising the functions of in excise matters for the purposes of these rules.

6 All Jemadars Darogas, Daffadars, Peons or others having any executive authority in the excise establishment shall be styled Excise Officers, and shall (unless employed on detective duty) wear a belt exhibiting their rank and department.

The Municipal Boards are authorized to open establish, or build at their own expense ware houses at such places as they may consider most convenient.

These warehouses may likewise to closed or removed at the discretion of the Boards, due notice thereof being given to the public.

The Municipal Boards shall also frame
rules consistent with these rules and with the law
for the time being in force, for the management
and supervision of the warehouses, and these *
rules may be amended or altered by the Boards.

It shall be the duty of every person bringing
importing any of the excisable articles shewn
para 2 within the said limits, to convey them
at once to one of the warehouses or enclosures set
apart for the purpose, to be there weighed,
measured, valued, or counted, the duty being
levied thereon as soon as the articles quit the
warehouse for local consumption, provided
that persons not wishing to store their goods shall
remove the same immediately on paying the
required duty. It shall be lawful for the
Excise Officers to examine any box or package
suspected to contain excisable articles whether
such box or package be brought by rail or
cart, or otherwise.

Excisable articles should be accompanied
a memo, descriptive of contents, and should be
taken at once to the warehouse, Yea, for inspection,

Note.— The Rules should be posted up in a conspicuous and

and when removed therefrom for consumption Bangalore, the full rates will be leviable.

9. Excisable goods remaining unclaimed in warehouse for one year shall be sold for the payment of the dues and storeage charges thereon, and the balance of cash, if not within 3 years, will be forfeited for the benefit of the Board.

10. Every person who shall import or attempt to import, or convey into the Cantonment or Petté of Bangalore, any excisable articles not covered a pass or without paying the duty leviable on such articles, shall be liable on conviction before a Magistrate, to a fine not exceeding double the value of such articles and in any case not exceeding 500 Rupees, and the goods shall be further liable to confiscation.

11. It shall not be lawful for any person to sell either by wholesale or retail any of the articles taxed by the Municipal Boards a license.

The Municipal Boards shall have authority to regulate the form and conditions of all such licenses which shall be current only

official year and within such limits as may fixed by the Boards.

Persons taking out licenses for the retail sale excisable articles, shall pay for every such license such fee or tax not exceeding the rate of Rupees 100 per annum as may be fixed by the Boards, and such fee or tax shall be payable at such periods as the Boards may direct.

2. Any person selling, or attempting to sell, any excisable articles, without a license, shall be liable, on conviction, to a fine not exceeding Rs. 50; to be levied by the sale of any movable property of the offender or of his security, if found within the jurisdiction of the Boards, or if no such property be found within such jurisdiction, to imprisonment for a period not exceeding one month, with or without hard labour; provided that nothing in this section shall apply to the sale of excisable articles on which duties have been already paid by the importers of the same, licensed vendors or to persons who purchase for export, and not for retail sale or private use.

Excisable articles not exceeding Rs. 200 in value purchased by any person for his private use or

cancelled by Notification dt 26/9/72.

sold by auction, consequent on the owner dying or quitting the place, shall also be exempted from this rule.

Unless otherwise specially authorized by the Boards licenses for retail sale for which a fee of annual sum not exceeding Rupees one shall be by the Board, shall be granted for the term one year, and if continued to the holders shall be formally renewed from year to year; the grant and renewal of such licenses shall be in communication with the contractor for farming the duties for the time being; but it shall be incumbent on every person holding a license, who may intend not to renew it, to give notice of his intent to the Boards fifteen days previously to the expiration of the year; and if such notice be not given, it shall be at the option of the Board, to treat each license as terminated, or as renewed for a further period of one year; and if the license be not recalled by the Boards, the license held and engagement entered into by every such person, shall remain in force as if the said license and engagement had been formally renewed.

The same fee will be payable on the renewal

the first issue of a license.

The Boards may on due cause
therefore being shewn, recall or cancel any license
granted under these rules, if the tax or duty
herein specified be not duly paid, or in case of
violation of any other condition thereof; if the
Boards desire to recall a license for any cause
other than those above specified, they shall give
fifteen days' previous notice and remit a sum
equal to the tax for fifteen days, or, if notice be
not given, shall make such further compensation
default of notice, as the Chief Commissioner
Boards shall direct.

Any licensed retail vender may surrender
license on giving fifteen days' previous notice
the Boards and paying a sum equal to the
for fifteen days over and above the sum
payable under the license.

The Boards may recover any arrear of tax
excise duty due on account of any license grant
d under these rules, by distress and sale of
the goods and chattels of the person from
whom the same is due, or of his surety, as may
found within the Board's jurisdiction.

Every person licensed to sell excisable articles who shall not produce his license on the demand of any Excise Officer or who shall commit any act in breach of any of the conditions of his license not otherwise provided for in these rules, shall forfeit for every such offence a sum not exceeding fifty Rupees.

Any retail vendor who may sell or be found in possession of excisable articles which have not paid duty shall be liable, on conviction, to a fine not exceeding 500 Rs, or to imprisonment with or without hard labor for a term which may extend to 6 months in addition to forfeiture of his license.

13. Any person found in possession of a larger quantity of excisable articles (mentioned in para 2) than is shewn below, and for which no duty shall have been paid or pass held, shall be liable to the penalties prescribed in para 10.

Tobacco in any shape one pound
Betel-nut one seer
Betel-leaf one hundred

provided that nothing in this section shall extend to an importer of excisable articles from their Majesty's territories en route to a warehouse or to any person who may have purchased excisable articles from a licensed vendor for his private use

14. Any excise officer above the rank of peon may, under warrant of a Magistrate, enter and inspect at any time by day or night the shop, building or enclosure in which any licensed dealer shall carry on trade in the articles shown in para 2 and satisfy himself that all the excisable articles in the shop building or enclosure has duly passed through the warehouse and that the duty has been paid for them

Any Excise Officer may stop and detain any person suspected to be conveying, or to be in possession of, any excisable articles liable to confiscation under these regulations, and may seize the articles with vessels packages or coverings in which they are contained, and the animals and conveyances used in carrying them, and may also convey them to the nearest Police Station

16. Whenever any Excise Officer above the rank of peon shall have reason to believe that any excisable articles on which duty has not been paid are kept or concealed in any shop, building or enclosure, such Officer may obtain a warrant and enter such place and may open any door or force any obstacle, and

may seize and carry away any such

17. Whenever an Excise Officer shall seize or search any person or articles, he shall, within twenty four hours thereafter, make a full report to his immediate Superior of all the particulars thereof, and the person or articles seized shall be forwarded with all convenient despatch, in no case exceeding twenty four hours, to the Magistrate for adjudication; failing which he shall be liable to prosecution under the Indian Penal Code. (Section 176)

8. All Magistrates having jurisdiction within the limits of Cantonment or (Petè Municipality) may issue their warrant for the arrest of any person or the search of any Shop, building or enclosure when,

information received, they may have reason to believe that such person is in possession of, or that such Shop, building or enclosure contain, excisable articles liable to confiscation; provided that any person arrested, or articles so seized shall, after such enquiry as shall be necessary, be sent by the Officer ordering the arrest or search to the nearest Magistrate for due disposal of the case within twenty four hours.

19. Every person who shall obstruct or resist any excise Officer in the execution of his duty, or of any rules prescribed by the Municipal Boards, shall be liable to prosecution under Chapter X of the Indian Penal Code.

20. It is notified for information.

that any person maliciously
false information to an Excise or
Police officer, against any person,
in order to induce such officer to
arrest such person; or search ~~person's~~ Such
shop, house or enclosure, to the injury
or annoyance of such person, or any
other person in whom he is interested,
shall be liable to prosecution under
Chapter X of the Indian Penal Code.

21. Any Excise or Police officer who ~~shall~~ shall without reasonable
grounds of suspicion, search or cause
to be searched any shop, building or
enclosure, or shall vexatiously and
unnecessarily arrest any person or
seize the goods or chattels of any
person on the pretence of seizing or

liable to confiscation under this Act, or commit any other excess of duty, shall be liable to prosecution under Chapter IX of the Indian Penal Code, and to dismissal or other departmental punishment.

22. It is noted for information that the penalties prescribed by Chapter IX of the Indian Penal Code for public Servants who may be guilty of the offences therein described, shall also apply to Excise officials of all denomination.

In all cases in which complaint or information is preferred to a Magistrate of offences committed against the Excise Rules, not being cases in which persons are sent in custody by a Police or Excise officer, the Magistrate may issue a summons or warrant

for the attendance of a person

Provided that no complaint information of an offence against the Excise Rules shall be admitted unless it be preferred within a period of six months after the Commission of the offence to which the complaint or information refers.

23. All forfeitures and penalties for offences against these Regulations shall be adjudged by the Magistrates, and Sub-Magistrates having local Jurisdiction; always provided that such Magistrates shall in dealing with such offences be restrained within their ordinary jurisdiction.

24. All goods and chattels adjudged to confiscation and fines imposed under these Regulations shall be added to the Municipal funds;

always provided that it shall be competent to the Magistrate to award an amount not exceeding half of such fine, or of the value of such confiscated property, to the person who first gave information leading to the discovery of the offender.

Rule 25: The provisions of secs 64 to 70 (both inclusive) of the Indian Penal Code and of the Code of Criminal Procedure (Act XXV of 1861 or Act X of 1872 sec 307) shall apply to all fines imposed under these rules, and forfeitures shall be dealt with as if they were fines.

Notification No 1730 of 26/9/72

Office No 390 Dt 16.3.

Octroi Rules

Mysore Chief Comrs. Office
Bangalore 8th August 187.

To

The Secretary to the
Government of India
Foreign Deptt
Calcutta

General No. 2506
71 J.

"Judicial"

Sir

I am directed by the Chief Commr to transmit copies of the correspondence noted in the margin and to solicit the favor of your obtaining the sanction of His Excellency the Viceroy and Governor General in Council to the following addition to be made to Rule 10 of the Rules for the Collection of Excise duties in the Cantonment and town of Bangalore, approved & sanctioned in your letter No 7 of 18th Jany 1871

"to be levied by the sale of any
" moveable property of the offender,
" or his security, found within the
" jurisdiction of the Board, or else
" where; or, if no such property be
" found within such jurisdiction
" to imprisonment for a period
" exceeding three months, with or
" without hard labor.-

It will be observed addition now suggested is counterpart of the clause 12 authorising imprison default of payment of fine for the offence of selling artic without license which in Coll

† No 154 of the 20th July 72 from Supt of Chandidroog
" 331 of the 6th July 72 from Dy Supt Bangalore
" 88/21 of the 6th May 72 from Town & Cantonment Magistrate

opinion is less heinous than smuggling.
3 The defective character of
Rule 10 is illustrated in the case
referred to by the Cantonment
Magistrate as it now stands,
smugglers escape punishment
if they have no property at all,
or if it
is not situated within the
municipal limits of the town.
4 The Chief Commr. I am to
add concurs with the Supt. as
the necessity for the additional
clause now submitted, without
which smuggling could not be
effectually repressed in a large
town like Bangalore -

BR
7/8/72

7.8.72

I have &c
Offg. Secretary

7.8.72

No. 194 J.
398 (64)

In
No 267 of 1880
F&C. Mesl
1-10-80.

From

The Secretary to the Govt. of India.

To

The Chief Commissioner of Mysore

Dated Simla, the 12th September 1872

Mun.
7-72
2.

Foreign Deptt Sir,
Judicial

In acknowledging the receipt of the letter marginally noted from your Officiating Secretary, proposing an addition to Rule 10 of the Rules for the collection of excise duties in the Cantonment and town of Bangalore, I am directed to intimate that, in the opinion of the Government of India, the proper course would be to cancel the portion of Rule, beginning with the words "to be levied by" and ending with "provided that"; and, add a general rule to this effect.

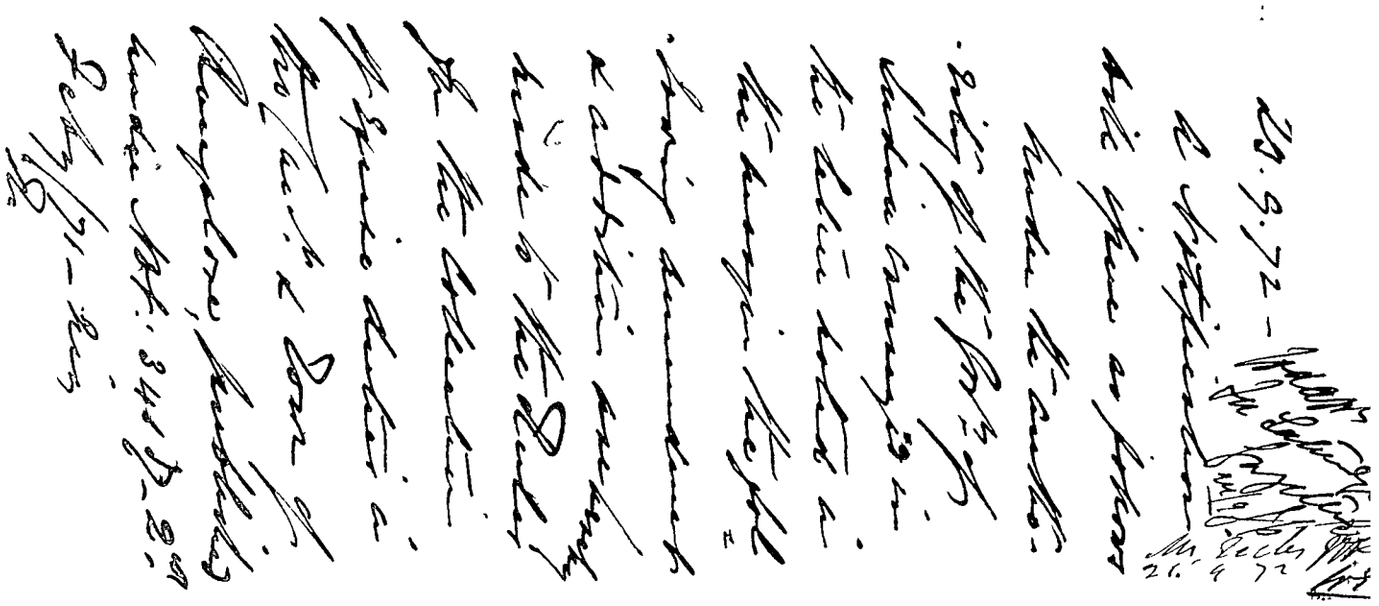
No. 2506/71 J, dated 8th August 1872

"The provisions of Sections
"64 to 70 (both inclusive) of the Indian
"Penal Code and of the Code of Criminal
"Procedure (Act XXV of 1861 or Act X of 1872
"Section 307) shall apply to all fines impos-

under these, and forfeitures shall be dealt with as if they were fines."

I have the honor to be
Sir,
Your most Obdt Servant

A. Mitchison
Secretary to the Govt. of India



41 1873. No 35

the great loss of the municipality).

I have the honor to be (Sir)
Your most obedient humble servant

(True Copy)

Secretary to Chief Commissioner
& Municipal Commissioner

From

The President,
Cantonment Municipal Commission

To,

The Secretary to Chief Commissioner,
General Department.

Dated.

Despatched. (17) Secretary.

Received.

Enclosures No. 2

Special No. 1934
No.

[illegible]

[illegible]

[illegible]

No. 1934

Office of the Cant. Municipal Commission

Bangalore 14 1873.

From

The President,

Cantonment Municipal Commission,

Bangalore.

To,

The Secretary to the

Chief Commissioner of Mysore.

Sir,

I have the honor to enclose for the Chief Commissioner's sanction an Extract from the Proceedings of the Cant. Municipal Commissioners dated 16th Instant Para 5 and to respectfully point out that in a great many of the prosecutions for smuggling the parties connected are Coolies and who are so poor that they have no means of paying any fine that can be inflicted under provisions of Section X of the Local Rules as the present proposed Amendment to Section X it is sought to provide more put on the prevention of smuggling as the rewarding of one Months imprisonment in every description and by this arrangement it is hoped to deter the above named people leading themselves to the accurate of smuggling in dutiable articles

49 6

Letter No 1934 dated 17th October 1893 from the President Cantonment Municipal Commission submitting for sanction an amended form of section 10 of Bangalore Cod. Rules

---

Order thereon — The amend form of section X of the Octro Rules having been approved sanctioned by the Chief is forwarded to the Comr. Mysore for publication both in English and Canarese for a space of one month

2 The President is requested that the insertion of the knowingly where I have passed necessary to guard against the punishment of innocent persons.

Mem K.
7-72
4

No 79 of 4th April
G 22

Computer Mysore Gaz
President Cantt Municipality

44 1874

Government of India

Home Department

To The President

Cantt Insp. Comm.

The Compiler Inspn.

Subjects

Dy 4 to April 1874

Weapons

Recog

No 79

G 22

Recd 3½ p.m. 4-4-74

Section X of Bangalore

Addressed Rules - Annexure

From the President, Cantonment Municipal Commission, Bangalore, To the Offg. Secretary to the Chief Commissioner of Mysore, Genl. Departme, No. 1934, dated Bangalore, 17th October 1873.

I have the honor to enclose for the Chief Comissioner's sanction, an extract from the Proceedings of the Cantonment Municipal Commission, dat 10th instant, para 5, and to respectfully point out that, in a great many of the prosecutions for suggling, the parties connected are coolies, and who are so very poor that they have no means of payin any fine that can be inflicted under the provisions of Section X of the Octroi Rules; by the presen proposed amendment to Section X, it is sought to provide more fully for the prevention of smuggling y the power awarding of one month's imprisonment of either description, and by this arrangement it hoped to deter the above named classes leading themselves to the occupation of smuggling in dutiabl articles to the great loss of the Municipality.

Extract from the Proceedings of the Meeng of the Cantonment Municipal Commissioners, dated 10t October 1873.

Proposed Amendmet of para X of Octroi Rules.

5. Proposed amendment of para 10 of th Octroi Rules to empower Magistrates to award punishment either rigorous or simple, when fines impos are not recoverable.

Resolution.—The Board consider it very desirable that some provision should be added to the present Octroi Rules to meet the case of irresponsible coees. &c., employed by others in smuggling in tobacco, and who under the present existing rules and havin no means to make good the fines imposed, thus escape all punishment. It is resolved therefore that th amendment proposed be submitted to the Chief Commissioner with the view of its being embodied in he Octroi Rules.

Proposed Amendmentof Section X of Octroi Rules.

Section X.— "Every person who shall *knowingly* import, or attempt to import, or convey into the Cantonment or Pete of Bangalore, any excisal articles not covered with a pass or without paying the duty leviable on such articles, shall be liable on conviction before a Magistrate, "*to imprisonment of either description for a term which may extend to e month or with*," fine not exceeding double the value of such articles and in any case not exceeding 5 Rupees, "*or with both*" and the goods shall be further liable to confiscation."

No. 79—Genl. 22, dati Bangalore, 4th April 1874.

Order thereon.—The amended form of Section X of the Octroi Rules having been approved and sanctioned by the Chief Commissioner, is forwarded to the Compiler, Mysore Gazette, for publication both in English and Kanarese for a space of one month.

2. The insertion of the word "knowingly" in line 1, was necessary to provide against the punishment of innocent persons.

H. W. WELLESLEY,
Offg. Secretary.

To—The Compiler, Mysore Gazette.
„ The President, Cantonment Municipal Commission. 5

1874.

GOVERNMENT OF MYSORE.

GENERAL.

THE PRESIDENT, CANTONMENT MUNICIPAL COMMISSION,
COMPIER, MYSORE GAZETTE.

Dated April 4th.
Despatched 14-
Receive Apl 15th.

No. 79.
Genl. 22.

Section X of Bangalore Octroi Rules.—Amending the same.

1874.

46

From Chief Commissioner, Andaman Division

To Secretary to Chief Commissioner, General Department.

Dated 10th Septr. 1874.

Despatched.

Received 16th

Sept 16th

Enclosures No. 1

General No. 13 — 1874/75.

Subject: Forwards copy of letters relative to the operation of the Amendt. Section X of the Bye Laws.

No. 433.

To Registrar.

16-9-74

I have the honor to forward herewith for the information of the Government of India in the Home Department Resolution No. 2013 of 11th August, 1874, copies of my letter No. 1 of the 1st instant, forwarding a note by the Superintendent on the suggestion of the Bye Laws involves an amendment of the Section which the Chief Commissioner may in order

Sir

and it be amended, vide Secretariat's for Home Annual Resolution. 7-72.

In this case decide it = Since the Municipal Bye laws have been [illegible] action under the 5th section of the Act Local Rules & Orders, published in the Gazette for guidance — RR 16/9/70

In this case I think the Cantonment Magte is right & that the sanction of the Govt of India should have been obtained to the rule in question. The bye laws, as their heading implies, are published under the sanction of H.E. the Viceroy & G.G. in C. Sects. 225-230 lay down the procedure to be observed in making future bye laws. According to this procedure the Ch. Comm. can only sanction a penalty to the extent of twenty rupees fine, & cannot sanction any imprisonment in lieu of fine. This is an

clause is
provides for imprisonment
of payment of fine.
throughout the rules there
similar omissions in many
of the penal clauses.
I would therefore submit (1)
that we should address the Govt
India pointing this out &
requesting categorically that
power to impose imprisonmen
in default of payment of fu
may be added to all the
penal clauses in the rules, &
(2) that for the present & until
this sanction is received
India, the bye laws
referred to should be
altered to one in accor
with the rules, under
which a fine of only
can be imposed.
Sir

1. From Comr Mysore Bang. No. 301/31 - 6th Aug. 1874.
2. From Offg Comr Bang. to the Comrs No. 521 - 11th Sept. 1874.

No. J 12 (9) 48

Fundy droog Division
Commissioner's Office
Bangalore, 10th Sept. 1874

To,

The Secretary to the Chief
Commissioner of Mysore.

Sir,

I have the honor to submit for the orders of the Chief Commissioner, Copies of the marginally noted letters relative to the operation of the amended Section X of the Octroi Rules published in the Chief Commissioner's Notification No 13 of the 4th April 1874 and to request that in case it is considered necessary to obtain the sanction of the Government of India, you will be so good as to move Sir Richard Meade to submit it with an additional Clause, authorizing the imprisonment of the delinquent, in default of payment of fine.—

I have the honor to be,
Sir,
Your most obedient Servant

Commissioner
for Amildars

301/31.

Town & Cantt. Magistrate's Office
Dated Bangalore, 6th Augt. 1874.

49

To,

The Deputy Commissioner
Bangalore District.

Sir,

I have the honor to inform you that a question has been raised by one of the Pleaders in Court, whether the amended Section 10 of the Retrois Rules, which was published by Notification No. 13 in the Mysore Gazette No. 20 of 23rd May 1874 could be legally brought into operation, without its having previously obtained the sanction of the Government of India. I beg you will favour me with your opinion and should you consider it necessary to refer the matter to the Chief Commissioner I beg you will suggest a clause being added to the effect "that in default of payment of fine simple or rigorous imprisonment to the extent of one month can be awarded."—

2.— It will have not escaped

your observation, that a fine
forced is sometimes very difficult to
recover on account of relatives and
friends of the person fined, laying
a claim to any property attached;
such persons moreover sometimes
plead poverty taking care that any
property that they may possess is
"removed" to some safe place. The
prospect of being sent to prison
if the fine is not paid will, it
is believed in most cases of this
nature induce the person fined
to pay the amount at once. —

I have &c
p.d. H. E. Grotter
Asst Comm.r Bangalore Dist.

Bangalore District
Deputy Commissioner's office
No. 521. Bangalore, 11th Aug.t 1874.

To,

The Commissioner
Mundy Droog Division.

Sir,

I have the honor to submit
copy

Copy of letter from the Town and Cantonment Magistrate of Bangalore, enquiring whether the amended Section 10 of the Rules for the Collection of Excise duties in Bangalore can be legally brought into operation, the question having been raised by Pleaders in his Court.—

2.— From the terms of Section 13 of Act XVIII of 1864, under which the Rules published in Chief Commissioner's Notification No. 341 dated 2nd February 1871, were framed, the sanction of the Government of India would seem to be necessary to give effect to the Amended Rule recently published in Chief Commissioner's Notification No. 13 dated 4th April 1874;— Act XVIII of 1864 was withdrawn from operation within the limits of the Cantonment and Town of Bangalore by Section I of the present Municipal Regulation published under Government of India Notification No 51 dated 31st

March 1871, but as the act itself not repealed and as the Municipal Regulations do not contain any provisions, relative to the Collection of Excise and the punishment of offenders against the Excise laws, it may be presumed that the new Rule was framed under the provisions of that Act.—

2.— I beg further, to point out that the Rule 10, as amended, does not provide for imprisonment being imposed, in default of payment of fine. Without such a provision, the recovery of a fine is difficult and often impossible to enforce.—

I have &c

(Sd.) J. G. Clarke

Dy. Commissioner.

1, 10th 71

Commissioner.

D-12

sanctioned long ago, it may not be desirable to send it now for their sanction, altho I have my note on the enclosure for application suggested that the rents in the mean time the sanction for their approval as the case proceeds the rule in question is a part, were sanctioned by the Govt of India -

18
15/9/74

11.6

(11.12

Immd.
7-72
6.

53 Sl. 6 1874.

No. 97

From The Presidency Police

To Secretary to Chief Commissioner,
General Department.

Dated.
Despatched. 8/11 [illegible]
Received. 12 -
[illegible]

6 Enclosures No. /

General No. 2013
No.

Respects that the sanction of the Governor General in Council for the amended section 10 of Central Rules may if necessary be obtained

[illegible]

12-9-74

6 Encls

If does not appear to my Mayor Mutual should declare taking action under the provisions of the Rule X annexed to the Chapter, and published for guidance in the Gazette until it has received India's sanction & the necessary for the Magistrates objection may be invited -

The amendment being

8

Office of the Cantt: Jnl: Commr.
Bangalore 11th September/54

54

To,

The Secretary to the
Chief Commissioner of Mys.

Sir,

I have the honor to enclose in Origi-
nal to be obligingly returned a Petition signed
by several of the Native Merchants Importers and
Dealers in Tobacco Cheroots &c. in the Cantonm-
ment of Bangalore Complaining of the Loss
they sustain from increased Smuggling and
which they state is encouraged by the fact
that when offenders are detected and brought
before the Magistrate a fine has only been impos
the parties thus Convicted being men in
very poor Circumstances and not actually
the owners of the Tobacco but employed to
bring the same into the Cantonment and
having no property of any description
which could be seized to realize the fine impose
I may here remark that the parties so
Convicted have nothing more to do with the
Tobacco than in bringing it into the Cantonme
Limits they are men hired by the Contraband
dealers for the purpose and are in fact simpl
Coolies from whom nothing in the shape of a
fine can be recovered.

The Chief Commissioner in his

Proceedings No: 79/22 dated 4 April 1884 was pleased to Amend Section 10 of the Detroit Rules which Amendment empowered the Magistrate to award on Conviction imprisonment of either description for a term which may Extend to one Month or with Fine not Exceeding 500 Rupees or with both and the Goods Confiscated, this Amendment does not seem to be clearly understood as in a late Smuggling Case in which a Conviction was obtained and in which a fine of Rupees 900/ Nine hundred was awarded against the Three Parties Convicted Major Mottet the Officiating Cantonment Magistrate declined to award imprisonment as he was of opinion that this Enhanced punishment Could not be awarded till the revised Section had received the Sanction of the Governor General in Council. Under these Circumstances I have to request the Chief Commissioner may be pleased if necessary to have the Amended Section Sanctioned so as to give it the force of Law.

I have the honor to be
Sir
Your most Obt. Servant

President Ind. Commission

(10) 56

Section Annl.
N. 7-72
al No. 7.

No 5204 dy 16th Oct.
& 1098 1874

N. 2013 dy. 11th
Sept. 1874. from the
Regr. Mund. Comrs
Bangalore.—

order thereon.

The President is informed that a reference to the Govt. of India will be necessary on the subject of his application and that in the meantime the octroi Rules in operation as amended should be considered as in operation.

2. The important omission to provide

an alternative of
imprisonment in
case of non-payment
of fine is likewise
noticeable in the
Penal Regulations
which seem to be
defective in these
respects also.
The President is
therefore requested
to discuss the rules
with the members
of the Board and
to suggest such
points as may
strike them as
requiring amendment
as to admit

58 of the subject being dealt with as a whole in the reference which it is proposed to make to the Govt. of India

Yours faithfully,

Offg. Secretary

To, The Prest. Cant. Munl. Comr. Bangalore.

4 Comt. Mundy. with reference to his letter No. 1289. 10th Sept. 74.

General

The President A
Cand. Insp. Com
by 15th October

C-520
109

Rec 5 pm
16/10/74

Action under -
directing that
the section as amen
be considered in
Operation Junction
the Junction of
Governments

60

Proceedings of the Chief Commissioner of Mysore, General Department,
16th October 1874.

From the President, Municipal Commission, Bangalor t, To the Offg. Secretary to the Chief Commissioner of Mysore, General Department, No. Bangalore, 11th September 1874.

I have the honor to enclose in original, to be obli rned, a petition signed by several of the koti merchants, importers and dealers in tobacco, cheroo &c., in the Cantonment of Bangalore, complaining of the loss they sustain from increased smuggling and which they state is encouraged by the fact that, when offenders are detected and brought before the Magistrate, a fine has only been imposed, the parties thus convicted being men in very poor circumstanc and not actually the owners of the tobacco but employed to bring the same into the Cantonment and having no property of any description which could be seized to realize the fine imposed; I may here remark that the parties so convicted have nothing more to do with the tobacco than in bringing it into the Cantonment limits ; they are men hired by the contraband dealers for the purpose, and are in fact simpletons from whom nothing in the shape of a fine can be recovered.

The Chief Commissioner in his Proceedings No. 79 dated 4th April 1874, was pleased to amend Section 10 of the Octroi Rules, which amendment empowered the Magistrate to award on conviction imprisonment of either description for a term which may extend to one month or with fine not exceeding 500 rupees or with both and the goods confiscated. This enactment does not seem to be clearly understood, as, in a late smuggling case, in which a conviction was obtained and in which a fine of Rs. 900, was awarded against the three parties convicted. Mr. Bottet, the Officiating Cantonment Magistrate, declined to award imprisonment as he was of opinion that this enhanced punishment could not be awarded till the revised Section had received the sanction of the Governor General in Council. Under these circumstances, I have to request the Chief Commissioner may be pleased, if necessary, to have the amended section sanctioned so as to give it the force of l

No. 5204—GENL. 1096, DATED BANGALORE, 16TH OCTOBER 1874.

ORDER THEREON.—The President is inform t a reference to the Government of India will be necessary on the subject of his tion, and that in the meantime the Octroi Rule in question as amended should b ed as in operation.

2. The important omission to provide ative of imprisonment in case of non-payment of fine is likewise noticeable i cipal Regulations, which seem to be defective in other respects also. The Presi therefore requested to discuss the rules with the members of the Board, and to such points as may strike them as requiring amendment, so as to admit of the su being dealt with as a whole in the reference which it is proposed to make to the G ment of India.

H. WELLESLEY,
Offg. Secretary.

To—The President, Cantonment Municipal Commission, Bangalore. 5 d/s. Copies
" Commissioner, Nundydroog, with reference to his lett —10—
No. 12, dated 10th September 1874.

1874.

GOVERNMENT OF MYSORE

GENERAL.

THE PRESIDENT, CANTONMENT
MUNICIPAL COMMISSION.

Dated October 16th
Despatched 21 *st*
Received

No. 5204
Genl 1096.

October Rules—Directing that the Section as amended be considered in operation pending the sanction of Government.

Mysore Chief Commr's office
Bangalore 5th November 71.

V. 5664
115 J

6½(11)

No,

The Secretary to the
Govt. of India
For: dept.
Calcutta

Genl.
7-22
8.

Instn C.

Sir.

I am directed to submit for the approval & sanction of H. E. the V. and G. G. in council the following amend. ed section X of the octroi Rules introduced into Bangalore under the authority conveyed in your letter V. 79. 18th Jany. 1871.

Sec: X. Every person
who shall knowingly
import, or attempt to
import, or convey into
the Cantonment or
Pete of Bangalore,
any excisable articles
not covered with
a pass or without
paying the duty leviable
on such articles,
shall be punished,
on conviction before
a Magistrate, with
imprisonment of
either description
for a term which
may extend to one months
or with fine not exceeding

double the value of such articles and in any case not exceeding 500 Rs., or with both, and in default of payment of fine, shall suffer imprisonment of either description for a term which may extend to one month, which imprisonment shall be in excess of any other imprisonment to which the offender may have been sentenced for an infringement of this Rule. The goods

liable to confiscation."

2. The words italicised in the above section have been added and are necessary in order to provide for the more effectual prevention of smuggling by empowering Magistrates to award imprisonment in cases in which fines are not calculated to have a deterrent effect or cannot be realized owing to the extreme

65 poverty of the
defendants, the
insertion of the
word knowingly
will provide against
the punishment
of innocent persons
I have &c.

H. G. Secretary

To The Secretary to the
Foreign Department
Calcutta

Dated 5th November
Recd Do.

General No 5664
115 J.

Submits for sanction
Amended Section X of the Octroi
Rules introduced into Dáugala

Vide the June 30th 1870 Jud. Pro. 21 Nov

67 No. 210 J 12

13 No. 267 of 1880. J & C. Mog. 1-10-80.

From

The Secretary to the Government of India,

To

The Chief Commissioner of Mysore,

Dated Fort William, the 30th November 18.

Section 7-72 9.

Foreign Departt. Judicial.

Sir,

In reply to your officiating Secretary letter No. 5664/115 J of 5th instant I am directed to state that the Governor General in Council is unable to approve the amendments proposed in Section 10 of the Octroi Rules in force in Bangalore.

2 The alterations recommended appear to be inconsistent with Section 65 of the Indian Penal Code, which you were authorised to apply to the Bangalore Excise Rules by my letter No. 194 J. dated 12th September 1872. His Excellency in Council considers that the rules then sanctioned give all the power which

it is desirable that Magistrates should possess in matters of this kind.

I have the honor to be,

Sir,

Your most obedient servant

C. Aitchison

Secretary to the Government of India.

26th September 1872

69

Under the authority of the Government of India, Foreign Deptt., conveyed in the letter noted in the margin, the following amendment and addition are hereby made to the Rules for the collection of excise duties in the Cantonment and Town of Bangalore, published under Notifn. No. 341, dated 2nd February 1871 Viz:—

× No. 194 J. Dated the 12th September 1872

Rule 12.— That portion beginning with the words "to be levied by" and ending with "provided that" is hereby cancelled.

Rule 25 — The provision of Sections 64 to 70 (both inclusive) of the Indian Penal Code, and of the Code of Criminal Procedure (Act XXV of 1861 or Act X of 1872 Sec: 307).

Addition] shall apply to all fines imposed under these rules, and forfeitures shall be dealt with as if they were fines.

"By order.

Sd J. Puckle,
Offg Secy

Copy.

A 1/30/96

Compd

1875.

From (13)

To The Commissioner Mundy & Coorg.
President Municipal Commrs.

Dated 4th January 1875

Despatched "

Received

ENCLOSURES NO.

General No. 7092 } 1874. 75.
No. 12

Passing orders regarding the amendments proposed in Sec 10 of the Octroi Act in force in Bangalore.

Mun-C
7-72
10.

Letter No. 2109. J.
30th November 1874
from the Secretary
to the Govt. of India
Foreign Dept —

71

No 7092
J 12
Bangalore 4th January 1875.

Order thereon.

Ordered that copy
of the foregoing
letter from the
Govt. of India be
forwarded to the
Commr. Mundiroog
and the President
Cantonment Mund.
Commission, Banga-
lore with the obser-
vation that it is
to be regretted that
the previous corres-
pondence with the
Govt of India has

been overlooked
as the necessity
for the reference
did not really exist.
Under the Chf. Comm.rs'
Notification dated
26th Sept.r 1872, No.
173, imprisonment
can be imposed
in default of payment
of fine. This Notification
should be brought
by the President
to the notice of the
Judicial authorities.

H.K.G. Secretary.

To, The Comm.r Kumbakonam
with reference to his
letter No. 129. Dy. 10th Sept.r
Hon Pres.t No 2.01 Dy.